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AUTHOR	Staten, Clifford L.
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ABSTRACT

This newsletter essay explores the conflicts between individual values and community values and efforts to resolve these conflicts under the U.S. Constitution. The paper includes five sections: (1) Introduction; (2) Value Conflicts and the Constitution; (3) Making Value Conflicts Relevant to Students; (4) For Example: The Indiana University Southeast Program; and (5) Conclusion. Six case scenarios focus on the conflict between individual values and community values. A teaching strategy is included. (EH)

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Teaching the U.S. Constitution: Values, Conflict, and Democracy

During the 1950s and the 1960s, America experienced a revolution in individual values, freedoms, and rights. By the mid-1960s, key legislation emphasized equality of opportunity in voting and employment, and equality of outcome in affirmative action programs and minimum wage laws. Ironically, the promotion of equality was often at the expense of individual values and freedom.

Many would argue today that the pendulum has swung too far toward the protection of individual values and the promotion of equality. Since the 1970s there has been a growing demand to balance individual values with community values such as law and order and standards of moral and ethical behavior and a growing backlash to programs such as affirmative action that promote equality at the expense of individual freedom.

By focusing on values and these value conflicts, teachers are able to create a microcosm of the American political process and American society in the classroom. The focus also forces students to examine and, perhaps more important, re-examine their own values. Students ask themselves why they prefer certain values over others, see the trade-offs involved in the resolution of these conflicts, and understand the importance of compromise.

This thematic approach has been successful in introductory courses on American politics in colleges and universities throughout the United States. The premier textbook that adopts this approach is *The Challenge of Democracy: Government in Action* (Janda, Berry, and Goldman, 1992). This approach also has merit at the secondary school level, where it can be incorporated into the teaching of the U.S. Constitution.

Value Conflicts and the Constitution

The Constitution provides us with a mechanism with which to resolve conflicts between individual values and community values, although we must give precedence to individual values whenever possible. Individual values may be those individual freedoms listed in the Bill of Rights such as free speech, freedom of assembly, free press, the right to due process, and the right to worship as one pleases. Other individual values and freedoms not mentioned in the Constitution may include the freedom to pursue employment, the right to be judged strictly by one's merit and performance, the freedom to travel from one place to the next, and the freedom of an employer to hire any person he or she desires. These values are at the heart of American democracy.

Community values typically include the need for law and order and the provision of security or national defense. Other examples of community values may focus on a particular social order such as the maintenance of community traditions or the promotion of standards of decency, morals, and ethics. Examples include prayer in the public schools, the recitation of the pledge of allegiance in public schools, or abortion. When individual values conflict with community values, our government institutions, such as the Congress or the Supreme Court, are called upon to resolve this conflict.

A noted Supreme Court case that illustrates the conflict between individual values and community values is *Tinker* v. *Des Moines Independent School District* (1969). In this case, a group of high school students wore black armbands to their classes to protest the Vietnam War even though the principals in the district prohibited the students from wearing the armbands because they felt it might provoke a riot or disturbance.

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The students were suspended from school.

This classic confrontation between individual values (free speech) and community values (the right of principals to maintain an environment that promotes education) was decided by the Supreme Court in favor of the students and their right to free speech.

The concept of equality, also crucial to American democracy, was initially defined in terms of equal opportunity for all Americans. Examples include the right of all citizens to vote regardless of their gender or race and employment laws that make it illegal to discriminate on the basis of race or gender. Others have expanded the concept of equality to mean equality of outcome. The implementation of affirmative action programs that redress past discriminatory practices, minimum wage laws, aid to families with dependent children, and guaranteed health care for all citizens are examples. When individual values conflict with the value of equality our government institutions must also resolve this conflict.

The minimum wage law is an excellent illustration of this conflict. Many employers argue they have a right to pay an employee what the market (based upon supply and demand) will allow, yet a minimum wage law forces employers to increase those wages in many cases. The U.S. Congress decided the democratic value of equality should take precedence over the employer's individual right to pay employees what the market will allow.

Another case involves the right of an employer to hire whomever he or she wants. A Supreme Court case that illustrates the conflict between individual values and the democratic value of equality is *Regents of the University of California* v. *Bakke* (1978). Allan Bakke, a white male, scored higher on the entrance exam to the University of California Medical School at Davis than any of the minority students who had been admitted. The school had an affirmative action program that reserved 16 of 100 places in the medical school for minority students, and as a result, Bakke was denied admission. This classic confrontation between individual values (the right to be judged and to succeed based upon one's achievements and qualifications) and the democratic value of equality (the right of a public school to redress past discriminatory practices toward minorities) was decided by the Supreme Court in favor of Bakke, although the Court upheld, in principle, the continued use of affirmative action programs.

Making Value Conflicts Relevant to Students

The standard approach to teaching about these value conflicts is to study Supreme Court cases and Congressional legislation.

Some of the more famous Supreme Court cases that illustrate the conflict between individual values and community values include *Lemon* v. *Kurtzman* (1971); *Engle* v. *Vitale* (1962); *W.Va. State Board of Education* v. *Barnette* (1943); *Schenck* v. *United States* (1919); *Gitlow* v. *New York* (1925); *United States* v. *Eichman* (1990); *Cohen* v. *California* (1971); *Miller* v. *California* (1973); *New York Times* v. *United States* (1971); *Gideon* v. *Wainwright* (1963); *Miranda* v. *Arizona* (1966); *Mapp* v. *Ohio* (1961); and *Roe* v. *Wade* (1973).

Legislation that illustrates this conflict includes the Sedition Act of 1798; the Trading with the Enemy Act of 1917; the Smith Act of 1940; the Subversive Activities (McCarran) Act of 1950; and the Communist Control Act of 1954.

Some of the more famous cases that illustrate the conflict between individual values and the democratic value of equality include *Brown* v. *Board of Education* (1954); *Swann* v. *Charlotte-Mecklenburg County Schools* (1971); *Regents of the Univ. of California* v. *Bakke* (1978); and *Johnson* v. *Transportation Agency, Santa Clara County* (1987).

Legislation that illustrates this conflict includes the Equal Pay Act of 1963; the Civil Rights Act of 1964; the Voting Rights Act of 1965; the Fair Housing Act of 1968; Title IX of the Educational Amendments Act of 1972; the Americans with Disabilities Act of 1990; the 14th, 15th, 19th, and 24th Amendments to the Constitution; and the proposed and defeated Equal Rights Amendment.

While students should be aware of much of this legislation and many of these cases, middle level and high school students have difficulty understanding and seeing how some of these cases affect their lives. Decisions written by Supreme Court justices are often difficult to comprehend—even by the brightest college students.

What teachers need are cases, either real or hypothetical, that take place in the middle level and high school environment. The following are a few hypothetical cases I have used to illustrate the conflict between individual values and community values.

- Kim Doe, an eighth grade student at Hazelwood Middle School, was recently suspended from school. Kim was president of the student government and had organized a political rally on the school playground during lunch. During the rally she burned the U.S. flag as a protest against the use of U.S. troops in the Persian Gulf. (Kim's brother had just been killed in that conflict.) Most of the students who attended the rally supported Kim's views and cheered when she burned the flag. Students who opposed her views for the most part did not attend. The rally was peaceful and all the students returned to their classes. The principal suspended Kim for her disrespect for and mutilation of the U.S. flag.

- John Smith, an eighth grade student at Scribner Middle School, was recently suspended from school. John was president of the student government and had organized a political rally in the school gym during lunch. During the discussion he burned the U.S. flag as a protest against the use of U.S. troops in the Persian Gulf. (John's brother had just been killed in that conflict.) Students who opposed his views also attended the rally and started a fight when he burned the flag. Several students were injured and many did not return to their classes. John was suspended from school not only for starting a riot in

the school but also for his disrespect for and mutilation of the U.S. flag.

■ One of the students at Kennedy Middle School stole the championship basketball trophy from the trophy case. The principal, Mr. James, wanted to find the trophy and decided he could search the locker of any student at any time and under any circumstances. One morning while Jane Jones was in her gym class, Mr. James searched her locker. He had no reason to suspect Jane of stealing the trophy. He found a pack of unopened cigarettes in her locker. Jane was suspended from school because students were not allowed to have tobacco products at school.

■ John Miller was a tenth grader and a writer for the Smith High School newspaper. In a recent article he used the term "niggers" to describe the participants in a fight in the school cafeteria. Smith Middle School has a large number of African American students. The principal dismissed John from the newspaper staff because of his offensive language.

The following hypothetical cases illustrate the conflict between individual values and the value of equality.

■ Mr. Smith had been advising the Wilson Middle School newspaper for 25 years. During that 25 years he never selected a girl to be the chief editor, although many well-qualified girls applied for the position. The student government passed a resolution stating that this year Mr. Wilson must select a girl to be chief editor. Mr. Smith stated that he had always selected the most qualified student and would not obey the resolution passed by the student government.

■ Robyn Smith was the tallest person in Floyd High School. She was also the best basketball player—better than any of the boys. Floyd High School did not have a basketball program for girls, so Robyn wanted to play on the boys team. Coach Turner would not allow her to play because she was a girl. He said there would be too many problems with a girl on the team. The boys would not treat her as an equal and they would not play "tough" against her. She would also have to shower and dress in a separate area. The principal support Coach Turner's decision.

Students are able to identify the conflicting values and relate to these cases because they take place within the school environment.

For Example: The Indiana University Southeast Program

Each summer, 30 to 50 of the brightest middle school students from southern Indiana are invited to take part in Indiana University Southeast's Summer Learning Enrichment Academy. The academy introduces these young students to a variety of college disciplines and courses, including biology, math, art, literature, psychology, communications, English, and political science. I teach the Constitution and the Bill of Rights to these students in a way that promotes teacher-student and student-student interaction and focuses on values and value conflict and their resolution.

This approach to studying the Constitution is important because its influence may be seen beyond the classroom. For example, students develop a greater respect for differing value systems because they are focused to examine and sometimes question their own value systems. They also realize they can actually learn from other students who have different values and opinions. Students learn to listen and to be more sensitive to students with differing value systems.

The focus on value conflict resolution under constitutional rules and established government institutions may influence how students resolve differences among themselves outside the classroom.

Studying the Constitution also helps students develop good citizenship habits. Learning to participate in an active and constructive manner, learning that their values and opinions are important, learning to cooperate and to compromise if differences appear, and realizing the importance of participation by all carry over into life-long good citizenship habits. This is a worthwhile goal for any principal.

While focusing on values, value conflict, and the resolution of value conflicts, I have adopted the following goals in teaching the Constitution and the Bill of Rights:

- To illustrate that individual values or freedoms often conflict with community or societal values
- To emphasize that democracy in America demands that individual values be given precedence over community values whenever possible
- To illustrate that individual values often conflict with the democratic value or principle of equality for all citizens
- To illustrate that these conflicts must be resolved by our governing institutions, such as the Supreme Court, and that these resolutions are rarely simple or clear-cut
- To illustrate that the governing institutions that resolve these conflicts are made up of people who quite often have differing opinions as to the proper resolution of the conflict
- To illustrate that the Constitution and the Bill of Rights have a direct and relevant impact on their daily lives.

To encourage students to begin to think about democracy, I ask them to list the three most important characteristics of a democracy. Then, pairs of students identify the five most important characteristics of a democracy. Next they move into groups of four students and identify the seven most important characteristics of a democracy. One member of each group is then elected to read to the rest of the class the characteristics his or her group has listed.

Inevitably, almost all the typical individual values (freedoms) are included in the lists, as well as references to the value of equality. This method allows for both individual learning and group learning activities and can be used to facilitate class discussion regarding the meaning of democracy and these values.

A similar process can be used to help students identify community values. The class discussion concerning community values typically focuses on why these types of values are both necessary and important to us.

The next step is to illustrate the conflict between individual values and community values, and individual values and the democratic value of equality. I list possible community values on one side of the chalkboard and individual values on the other. I then ask the students if these sets of values can conflict with each other.

Sometimes an illustration is necessary for the students to begin to see the possible conflict. Each student writes a hypothetical or real example that illustrates this conflict and reads his or her example to the class. Students are then asked which value is more important and why.

This is another mechanism that facilitates class discussion. The same method may also be used in focusing on the conflict between individual values and the democratic value of equality.

Next, the students further develop and articulate their reasoning as to why they favor individual values over community values or community values over individual values in a given situation. For example, when focusing on freedom of the press and the conflict with community values, I give the students a worksheet that includes the following list:

1. A newspaper article that criticizes President Clinton.
2. A newspaper article that criticizes the President's wife.
3. A newspaper article that states there is no God.
4. A newspaper article that states that black Americans are inferior to white Americans.
5. A newspaper article that lists the names of all U.S. secret agents in China at this moment.
6. A newspaper article that says something that is not true about a member of your family.
7. A newspaper article that indicates to the Chinese where all our nuclear missiles are located.

I ask each student to write on a sheet of paper the community value that is in conflict with free press in each of these cases. Each student must then decide whether or not these are protected as examples of the freedom of the press. More important, each student must explain his or her reasoning. This worksheet is then used to facilitate class discussion.

The next step in the teaching process is a role playing simulation. The class is divided into two Supreme Courts with approximately seven to nine students on each Court. Each Supreme Court is given several hypothetical cases that take place within the middle or high school environment. The students on each Court must not only decide which value is more important, but explain why. If all members of their Supreme Court do not agree about the case, they must write both a majority and a dissenting-minority opinion concerning the case. Each Supreme Court reads its majority and minority-dissenting opinions to the rest of the class. The class discussion focuses not only on the differences in the outcome of the decisions by each court but also the differences in the reasoning of each court.

These teaching methods allow students to realize that they can learn not only from the teacher but also from each other. The students quickly learn that these value conflicts are rarely black and white and that there will be many disagreements, not only on the final resolution of the case but also on the reasoning involved in reaching that resolution.

The teaching methods also involve both individual and group oral and written activities. Group activities are especially important in developing communication skills.

Perhaps more important, these teaching methods promote interactive learning between the teacher and the student and among the students themselves.

Conclusion

Conflict over values and the resolution of that conflict is at the heart of American democracy. Students must be able to identify both individual and community values and understand the concept of equality and its importance to democracy. They should understand that these sets of values often conflict with each other and that the resolution of these conflicts takes place within a democratic political process that requires citizens to decide which value is more important. They need to examine and reexamine their own values and preferences in order to participate fully and more effectively in that decision-making process.

By adopting an interactive teaching approach that emphasizes student participation and by emphasizing the theme of values, value conflict, and conflict resolution, teachers are not just teaching the Constitution, they are teaching good citizenship and an appreciation for American democracy.

Bibliography

Alderman, Ellen, and Kennedy, Caroline. *In Our Defense*. New York: William Morrow, 1991.

Janda, Kenneth; Berry, Jeffrey; and Goldman, Jerry. *The Challenge of Democracy*, 3d ed. Dallas: Houghton Mifflin, 1992.

Patrick, John, and Leming, Robert. *Resources for Teachers on the Bill of Rights*. Bloomington, Ind.: ERIC Clearinghouse for Social Studies/Social Science Education, 1991.

Staten, Clifford. "Teaching the First Amendment to 7th and 8th Graders." *Social Education* 1(1993): 43-44.

This *Curriculum Report* was written by Clifford L. Staten, assistant professor of political science, Indiana University Southeast, New Albany.